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May Trial Date Is Set In Rostenkowski Case

Reuter

A federal judge yesterday set a May 15 trial date for former representative Dan Rostenkowski (D-Ill.) after rejecting a defense request to move the corruption trial to Illinois.

U.S. District Judge Norma Holloway Johnson turned down a bid by Rostenkowski's lawyers to have the criminal case transferred to Chicago, where the former Democratic lawmaker lives. She said Rostenkowski's alleged scheme to defraud Congress took place here, that the documents and many prosecution witnesses were from this area and that Rostenkowski can bear the expense of a trial here.

Rostenkowski, a House member from 1959 until his defeat a year ago, has pleaded not guilty to a 17-count indictment charging him with skimming more than \$600,000 in taxpayer funds from various congressional allowances over 20 years. The former powerful House Ways and Means Committee chairman allegedly used the money to benefit himself, his family and friends, employed staffers who did little or no official work and obstructed justice.

In another ruling, Johnson gave prosecutors one week to turn over any exculpatory material to defense lawyers. She set a May 15 trial date and estimated the trial would last about two months.

The next step in the case will focus on a U.S. appeals court ruling that ordered Johnson to consider whether six counts of the indictment can survive in view of a recent U.S. Supreme Court decision that a law on false statements applies only to executive branch agencies.

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A8 SATURDAY, JANUARY 13, 1996

THE WASHINGTON POST

Rostenkowski's Plea Bargain Overture Rejected

Trial in Two-Year-Old Corruption Case Could Await Appeals Lasting Up to a Year

By Toni Locy
Washington Post Staff Writer

Efforts by lawyers for former representative Dan Rostenkowski (D-Ill.) to negotiate a plea bargain have failed, keeping alive a nearly two-year-old corruption case that could become mired in appeals for up to another year.

A source familiar with the case said Dan Webb, Rostenkowski's lead defense lawyer, approached prosecutors in the office of U.S. Attorney Eric H. Holder Jr. during the past month to see if they could agree on a deal.

The source, who requested anonymity, said Webb would have been "remiss" had he not checked "the temperature" of prosecutors at this point in the case, once one of the highest profile prosecutions in Washington but which lost considerable altitude since Rostenkowski was defeated for reelection in 1994.

Discussions about a plea were held but, within the past week, the talks ended without an agreement, the source said. "There was not enough common ground," the source said, declining to be more specific and adding that neither side has ruled out the possibility similar discussions could occur again.

The overture came as U.S. District Judge Norma Holloway Johnson tried to steer the case toward trial, which she set for May 15 while acknowledging the date could, and probably would, change. She plans to hold another hearing Jan. 31 on complicated legal issues that already have been the subject of appeals and probably will be again. Before his indictment in May 1994, Rostenkowski was so adamantly opposed to a deal that he fired his lawyer at the time, Robert S. Bennett, who had come close to gaining an agreement with prosecutors.

Once the powerful chairman of the

House Ways and Means Committee, Rostenkowski, 68, is accused of misusing his office through a pattern of corruption that spanned three decades.

He is charged with converting to his personal use more than \$600,000 in federal funds and \$50,000 in campaign contributions.

The 17-count indictment alleged he exchanged official postage vouchers for cash at the House Post Office, bought gifts and personal items with government funds at the House Stationery Store and paid more than a dozen employees who did little or no work.

In July, a three-judge panel of the U.S. Court of Appeals for the D.C. Circuit issued a complex ruling, buoying Rostenkowski's lawyers by dismissing some charges but sending the rest of the case back to Johnson to resolve. The panel also rejected Rostenkowski's arguments that the entire in-

dictment was illegal and violated the Constitution's separation-of-powers doctrine.

Johnson must decide whether to dismiss six charges that Rostenkowski lied to Congress and the Federal Election Commission, something the U.S. Supreme Court said last year was no longer a crime under a "false statements" law prosecutors had used in the case.

Lawyers familiar with the case say defense attorneys would launch another round of appeals if Johnson rules against Rostenkowski. If that happens, the case could not go to trial in May and would be delayed several more months.

The case, which stems from an investigation of the House Post Office, led to the end of Rostenkowski's 36-year tour in Congress. He was beaten by a political neophyte, Republican Michael Patrick Flanagan.

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Ex-Employee Charged In Rostenkowski Case

Lawyer Sees an Attempt for Pressure

Associated Press

A former Chicago city employee who earned \$90,000 over 12 years for cleaning Dan Rostenkowski's offices has been charged with lying to a federal grand jury about his work for the ex-congressman.

The indictment released Friday charges Robert Russo with one felony count each of perjury and obstruction of justice. If he is convicted, the maximum penalty for each charge is five years in prison and a \$250,000 fine.

The charges are the second development in a week in the political corruption case against Rostenkowski, a Chicago Democrat.

On April 13, a former Illinois state lawmaker's son pleaded guilty to obstructing justice by lying to the grand jury about what prosecutors called his "no show" job for Rostenkowski.

Russo's lawyer, Raymond Banoun, said it was "a very unfortunate and very misguided action by the government to indict a person on a mere minuscule issue... and the only way I can explain it is that they feel somehow they're going to put pressure on Rostenkowski."

One of Rostenkowski's law-

yers, Tom Buchanan, agreed with that assessment and said, "I don't think it's going to work."

Rostenkowski was indicted in May 1994 on charges he used official funds to pay employees who did mostly personal work for him; converted stationery, postal and home office allowances to his personal use; and obstructed justice.

Rostenkowski has pleaded not guilty, and his lawyers are trying to have the charges in the 17-count indictment dismissed. He lost reelection.

Rostenkowski's indictment outlined alleged fraudulent salaries, totaling more than \$500,000, for 14 employees in his offices from 1971 to 1992, without identifying the employees by name. But the description for "Employee 7" corresponds to information in Friday's indictment of Russo.

The perjury count charges Russo lied to the grand jury Sept. 21, 1993, by claiming he knew of no one else who cleaned the office and that he worked five days a week, every other week.

The obstruction of justice charge says Russo deliberately withheld evidence from the grand jury.

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Chicago Death T

By Megan Garvey
Washington Post Staff Writer

CHICAGO, July 18—City authorities today raised the death toll in Chicago's heat disaster to 376 and said the number of deaths at least partly attributable to five days of 100-degree heat could reach 500.

Although the flow of bodies into Cook County morgue finally slowed to a trickle today, 120 corpses still await autopsies. With all 222 bays filled, morgue officials over the weekend had to call in refrigeration trucks to handle the overflow of bodies, most of them elderly people.

The city has begun to investigate how well the heat emergency was handled. The Illinois state legislature also has scheduled hearings on the disaster.

"We are assessing what we have done and what more could have been done," said Jim Williams, press secretary to Mayor Richard M. Daley (D). "The mayor is terribly concerned and upset about this tragedy. As far as all the criticism, it is expected."

There was no shortage of it.

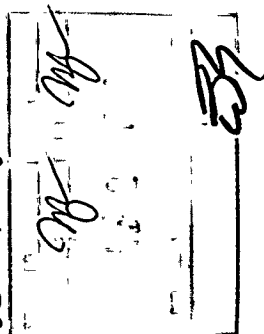
Senior citizen groups criticized the police. The mayor's office was criticized for being unprepared for a heat emergency and city officials were cited for failing to check on the elderly door to door.

The death toll underscored the vulnerability of elderly people who often live in relative anonymity in large urban centers. Chicago, for example, has more than 443,000 residents age 60 or over and 800 city employees charged with keeping tabs on them.

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Appeals Court Narrows Rostenkowski Case

Some Counts Against Former House Chairman Based on Vague Rules, Panel Says

By Kenneth J. Cooper
Washington Post Staff Writer

A federal appeals court yesterday narrowed the government's 17-count indictment of former representative Dan Rostenkowski (D-Ill.) on corruption charges, dismissing several allegations because they were based on vague House rules.

The three-judge panel rejected Rostenkowski's contention that the entire indictment should be dismissed as an unconstitutional intrusion on Congress's right to set its own rules. But the judges ordered a lower court to review six counts of lying to Congress, an act the Supreme Court recently ruled is not a crime.

The 40-page decision by the U.S. Court of Appeals for the D.C. Circuit cheered defense attorneys for the once powerful chairman of the House Ways and Means Committee, and appeared likely to further delay his trial based on the May 1994 indictment. But Justice Department sources predicted federal prosecutors would still build a strong case on embezzlement and other serious charges.

"I am ecstatic," said Howard M. Pearl, Rostenkowski's Chicago-based attorney. "I believe it emasculates a significant portion of the government's case."

U.S. Attorney Eric H. Holder Jr., noting the court rejected Rostenkowski's blanket challenge to the indictment, said the ruling "affirmed once again that members of Congress are not above the law and are accountable to the American taxpayer. . . . We're ready and eager to go to trial in this case."

The indictment, which grew out of a federal investigation of the House Post Office, accuses Rostenkowski of a pattern of corruption for two decades and converting to his personal use more than \$600,000 in federal funds and \$50,000 in campaign contributions. He is charged with exchanging official postage vouchers for cash at the House Post Office, buying gift and personal items with government funds at the House Stationery Store, paying more than a dozen employees who did "little or no official work" and buying vehicles with government funds authorized for leasing official cars.

The corruption charges led to Rostenkowski's defeat last November by Republican Michael Patrick Flanagan, then a political unknown. Rostenkowski, a 36-year veteran of Congress, has since returned to Chicago, occupying himself with speeches and consulting.

In an opinion written by Judge Douglas H. Ginsburg, onetime Supreme Court nominee, the appeals panel ruled on constitutional grounds that Rostenkowski could not be prosecuted on allegations that several of his congressional employees had performed personal tasks, not official duties.

The appeals court found that although the House prohibited use of a member's office payroll to "defray any personal, political or campaign-related expenses," that rule did not spell out the difference between "personal" and "official" activity. For courts to supply that definition, the judges said, would violate the constitutional separation of powers and the House's right to set its own rules.

"The life of a congressman—as incumbent

legislator and perpetual candidate for office, whose official days end only after a round of nominally 'social' events at which he is obliged to appear, and his weekends and holidays are only an opportunity to reconnect with his constituents—makes the line between 'official work' and 'personal services' particularly difficult to draw," the court said.

It said Rostenkowski could not be prosecuted on some allegations but let others stand:

■ A charge that one employee was "picking up laundry, driving his family members around Washington and working at campaign events" was dismissed because "those activities might . . . directly—even vitally—aid a congressman in the performance of his official duties."

■ The government was permitted to pursue an allegation that another employee "performed regular bookkeeping duties" for an insurance company Rostenkowski owned, an activity the court said fit "no reasonable interpretation of 'official work.'"

■ Prosecutors were allowed to seek to prove Rostenkowski used official funds to purchase gifts from the House Stationery Store because a rule clearly prohibited such gift-giving. But he cannot be charged with converting any items purchased to his personal use.

Rostenkowski's lawyers have argued that House rules were too unclear for violations to constitute crimes. U.S. District Judge Norma Holloway Johnson rejected that argument last October, and the appeals court agreed that no "absolute bar" to such prosecutions exists on constitutional grounds.

"While charges remain," Pearl said, "those



DAN ROSTENKOWSKI

... accused of pattern of corruption

charges will be much more difficult to prove and our ability to defend against them is enhanced."

The appeals court suggested Johnson could dismiss six counts accusing Rostenkowski of lying to Congress or the Federal Election Commission because of a Supreme Court ruling in May. In that decision, involving charges against former representative Carroll Hubbard Jr. (D-Ky.) that grew out of the House Bank scandal, the Supreme Court held that a federal law against making false statements to the government applies only to the executive branch, not Congress or the courts.

A Justice Department source acknowledged that the Hubbard-related part of the decision "stings," but quickly added: "We've still got a strong case. . . . We're still capable of going to trial and convicting Mr. Rostenkowski on some serious offenses."

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Rostenkowski Trial Date Hinges on Appeal Decision

U.S. Could Challenge Dismissal of 4 Charges

By Toni Locy
Washington Post Staff Writer

Will former representative Dan Rostenkowski (D-Ill.) finally go to trial on two-year-old corruption charges in May, as scheduled?

That depends largely on whether the Justice Department decides to appeal a ruling made this week by U.S. District Judge Norma Holloway Johnson in which she dismissed four of 17 charges against Rostenkowski.

The four charges in dispute involve allegations that Rostenkowski, the former chairman of the House Ways and Means Committee, made false statements to the House Finance Office.

While prosecutors played down the effect of the loss of the four charges on an eventual trial, Howard Pearl, one of Rostenkowski's attorneys, said the four charges are important because they are part of the prosecution's "fundamental theory" of the case. "We have been chipping away at the building, brick by brick. We'll see what's standing at the end," he said.

The sweeping indictment against Rostenkowski accuses him of engaging in a pattern of corruption that spanned three decades. Among other crimes, he is accused of converting to his personal use more than \$600,000 in federal funds and \$50,000 in campaign contributions.

In her 10-page ruling filed Tuesday, Johnson said a Supreme Court ruling of a year ago required her to dismiss the charges because they did not involve false statements to an executive branch agency but to a division of Congress.

Prosecutors, however, argued that the House Finance Office could be considered an "agency" in the general sense, and that the Supreme Court had left open that possibility in its ruling in the other, unrelated case.

But they must now decide if that principle is worth fighting for.

If they think it is, the May 15 trial for Rostenkowski would almost assuredly be delayed.

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Weather

Today: Partly sunny, windy, cool.
High 50. Low 36. Wind 15-30 mph.
Thursday: Sunny, much warmer.
High 68. Low 48. Wind 8-16 mph.
Yesterday: Temp. range: 38-44.
Wind chill: 22. Details on Page D2.

The Washington Post

Sections

A News/Editorials
B Sports
C Style/Television/Classified
D Metro/Obituaries
E Food/Comics
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Inside: *Horizon*
Today's Contents: Page A2

119TH YEAR ... No. 127

WEDNESDAY, APRIL 10, 1996

Prices May Vary in Areas Outside
Metropolitan Washington (See Box on A2)

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Rostenkowski Fraud Plea Brings 17-Month Sentence

Former Ways and Means Chief Fined \$100,000

By Toni Locy
Washington Post Staff Writer

Former representative Dan Rostenkowski (D-Ill.) pleaded guilty in federal court here yesterday to two counts of mail fraud and was sentenced to 17 months in prison and \$100,000 in fines in the final act of a legal and political drama that began nearly two years ago.

Long among the most powerful figures in Washington as the chairman of the House Ways and Means Committee, Rostenkowski's downfall came over the use of public funds to pay employees who did little or no work, and to buy personal gifts.

Specific charges related to those payments were dropped as part of the plea agreement he struck with prosecutors, and a combative Rostenkowski told reporters outside the courthouse that his use of the U.S. mail to send the payments was a mere "technical" violation of the law.

Prosecutor Thomas J. Motley, however, told the court that Rostenkowski had "defrauded the United

States and the House of Representatives, and he defrauded the citizens of the United States of their right to Mr. Rostenkowski's fair and honest services as a member of Congress."

In imposing the sentence, U.S. District Judge Norma Holloway Johnson called Rostenkowski's actions a "reprehensible" breach of trust in the House, which she described as "the very heart of our ... democracy."

Rostenkowski, dressed in a worn blue tweed jacket and paisley tie, stood quietly in court as Johnson berated him. But he came out of the courthouse swinging and showing flashes of the bare-fisted, old-style Chicago ward politician he once was.

Defiantly describing his offenses as something everyone in Congress had committed at one time or another, Rostenkowski told reporters: "I have been asked by many if I am bitter because of the extensive investigation by the United States Department of Justice of my conduct while I served in Congress and as chair-

See ROSTENKOWSKI, A8, Col. 1



BY GERALD MARTINEAU—THE WASHINGTON POST

Ex-lawmaker Dan Rostenkowski after entering plea to mail fraud counts.

Rostenkowski Pleads Guilty, Gets 17 Months

ROSTENKOWSKI, From A1

man of the House Ways and Means Committee. While I deeply regret the trauma that this intense scrutiny has bestowed upon my family, friends and supporters, I personally have come to accept the fact that sometimes one person gets singled out, to be held up by law enforcement as an example."

U.S. Attorney Eric H. Holder Jr. flatly rejected Rostenkowski's description of the two felony charges to which the former congressman had admitted guilt. "People are not sent up to that institution," he said, pointing at the Capitol a short distance away, "to line their pockets."

Holder said Rostenkowski brought law enforcement to his door by his own actions—his use of government employees to remodel his house and take pictures at his daughter's wedding and his practice of giving expensive china and hand-painted armchairs paid for by taxpayers to his friends, to name a few.

Rostenkowski, 68, originally was charged in a 17-count indictment in May 1994 with engaging in a pattern of corruption that spanned nearly all of his 36 years in Congress. He was accused of illegally exchanging postage stamps for cash at the House Post Office. He was charged with using government employees to run personal errands for him. He was accused of pocketing federal funds and campaign money. And he was charged with us-

ing merchandise in the House Stationery Store as gifts to friends and constituents.

Those charges led to his defeat in November 1994 at the hands of a political neophyte.

As a May 15 trial date loomed, his

THE 17 CHARGES

Here are the original charges against former representative Dan Rostenkowski (D-Ill.). A May 1994 indictment said he converted \$636,000 in federal funds and \$56,000 in campaign money to personal use.

PLEADED GUILTY TO TWO CHARGES

■ Mail fraud (two counts)

Used mail to further frauds involving employees on payroll who did little or no official work and public funds used to buy personal gifts.

CHARGES DROPPED LAST MONTH

■ Concealing a material fact (four counts)

Applies to "ghost" employees; \$73,500 in fraudulent car leases charged to the government; public funds used to buy personal gifts; and cash received from House Post Office for stamps bought with public funds.

OTHER CHARGES FROM 1994 INDICTMENT, DROPPED YESTERDAY

■ Mail and wire fraud (three counts)

Used telephone and mail to further frauds involving cash for stamps and personal cars bought with public funds.

■ Obstruction of justice (one count)

Asked grand jury witness who engraved gifts bought at House stationery store to withhold evidence.

■ Embezzlement (four counts)

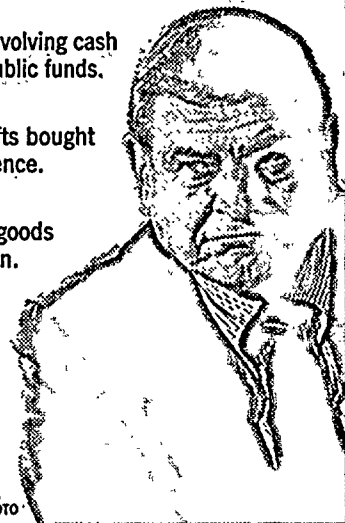
Applies to public funds spent on personal goods and services and cash-for-stamps allegation.

■ Concealing a material fact from the Federal Election Commission (two counts)

Asked House postmaster to cash signed campaign checks; directed campaign committee to pay for personal car leases.

■ Conspiracy (one count)

Applies to cash-for-stamps allegation.



FILE PHOTO

THE WASHINGTON POST

lawyers, led by Dan K. Webb, and prosecutors hammered out the deal that Johnson signed off on yesterday. In addition to the agreed 17 months and the fines, the judge also said Rostenkowski will have to pay the costs of his incarceration, about \$1,800 a month, if the Bureau of Prisons determines that he can afford it.

"The guilty pleas don't reflect the breadth of your crimes," Johnson said. "In your important position, you capriciously pursued a course of personal gain for you, your family and your friends. You have stained them, as well as yourself, and the high position you held."

"The penalty you and your family [will suffer] will be the burden of conscience, will be the burden of disgrace that will always be associated with your tenure in Congress," the judge said.

"For me, it's a very sad day," said former minority leader Robert H. Michel (R-Ill.), who had an office next to Rostenkowski's and played golf with him during the days when Rostenkowski was a power in the House. "He's a very fine human being personally," Michel said. "I'll never say anything bad about my friend."

During the dozen years he ruled the Ways and Means Committee, Rostenkowski was larger than life, a big man who enjoyed holding court in restaurants, particularly those that served his favorite dish, red meat. "I think Danny Rostenkowski was a mentor to many of us who were on his committee," said Rep. Robert T. Matsui (D-Calif.). "We looked to him for leadership throughout our careers."

Rostenkowski followed his father into politics, succeeding him as a committeeman in Chicago's 32nd Ward, which they ruled from 1935 to 1987. He was elected to the state legislature in 1952, at the age of 24. Six years later, Rostenkowski convinced Mayor Richard J. Daley to back him for Congress to pay off a political debt the mayor owed his father.

In 1980, when several senior members of Congress were voted out of office, Rostenkowski was given the choice of Ways and Means Committee chairman or whip. He took the committee, the most powerful on Capitol Hill because it controls the government's purse strings.

"I am very proud of my 36 years in Congress," Rostenkowski said yesterday. "I believe I have served my constituents with dignity, honor and integrity. I know of no member of Congress who worked harder on behalf of his state, his city or his congressional constituents. . . . With the events of today, I have now put this matter behind me and, when I am released from incarceration, I intend to be actively involved in public life."

Staff writer Guy Gugliotta contributed to this report.

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THE WASHINGTON POST

Kolter Guilty in Post Office Scandal

Ex-Lawmaker Pleads to Fraud Conspiracy Involving House Postmaster

By Toni Locy
 Washington Post Staff Writer

Former representative Joseph P. Kolter (D-Pa.) admitted yesterday that during his 10 years in Congress he walked into the House Post Office, put thousands of dollars in taxpayer money into his pocket and lied on vouchers that said he had gotten stamps instead.

Kolter, 69, who served from 1983 to 1993, pleaded guilty to one count of conspiring with the former House postmaster, Robert V. Rota, and others to steal from the post office.

By doing so, Kolter deprived citizens of "their right to have the business of the U.S. House of Representatives conducted honestly and impartially, free from corruption, conflict of interest, deceit and fraud," prosecutor Wendy L. Wysong said.

Originally, Kolter was charged with embezzling more than \$40,000 in taxpayer funds: \$11,000 from the post office and more than \$33,000 in merchandise from the House Stationery Store. He pleaded guilty to only one charge yesterday, involving seven incidents totaling \$9,300 in thefts from the post office.

He is the first former congressman to admit that such a fraud existed at the post office. Former House Ways and Means Committee chairman Dan Rostenkowski (D-Ill.) vehemently disputed similar charges brought against him, even after he pleaded guilty last month to taking merchandise from the House Stationery Store and giving it to friends and using government employees to do personal chores, such as take pictures at his daughter's wedding.



FILE PHOTO

JOSEPH P. KOLTER

... faces five years in prison

Still outraged by Rostenkowski's combative remarks—that his crimes were meaningless because he had simply done what everyone else in Congress had done—prosecutors said Kolter's admission proves there was a cash-for-stamps scam in the post office.

"This demonstrates that Robert Rota was giving cash to congressmen," said prosecutor John M. Campbell, head of the public corruption unit in U.S. Attorney Eric H. Holder Jr.'s office.

"We were prepared to prove it," said prosecutor Thomas J. Motley. "We would've proven it."

Prosecutors said the post office investigation is continuing. Rota and two other post office employees who coop-

erated in the probe are awaiting sentencing; no dates have been set.

U.S. District Judge Norma Holloway Johnson set Kolter's sentencing for July 31. While the maximum penalty he faces under law is five years, his sentence under federal guidelines will probably fall within six to 12 months, lawyers for both sides said.

Wysong said Rota, Kolter and "other selected congressmen" set up a system that was "convenient and largely untraceable" to steal funds from the post office. They did it, she said, in two ways: Kolter would ask for and get a large number of stamps through a signed voucher and then, a short time later, take them back and exchange them for cash. But most often, Rota simply gave Kolter cash directly after he signed a voucher on the spot falsely stating that he had gotten stamps.

Kolter and Rota kept the conspiracy secret by having Kolter go personally to the post office to handle the transaction, Wysong said. Rota also kept a computerized list that kept track of the volume of stamps purchased by members of Congress. The two men often checked Kolter's purchases to make sure they were not out of line with the others so they would not draw attention, Wysong said.

After Wysong finished her summary, Judge Johnson asked Kolter if he agreed with it. The former congressman slowly shook his head. "Yes, ma'am," he said softly. She cautioned Kolter that he must abide by terms of his bond and asked him if he would return to court for sentencing.

"Looking forward to it," he said.